

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed on August 19, 2005. Claims 38-50 are pending in the application. Claims 38-50 are rejected in the Office Action. Claims 38, 44, and 50 have been amended. Claims 39-43 and 45-49 have been cancelled. Claims 51-80 have been added. Applicants respectfully request reconsideration and favorable action of all pending claims in view of the amendments and the following remarks.

In the Specification

The Office Action has objected to the disclosure because it contains an embedded hyperlink and/or other form of Browser-executable code. Applicants respectfully traverse.

Applicants did not intend to provide a hyperlink. As the specification makes clear, cisco.com was provided as an example of a domain name as utilized by some embodiments of the Applicants' invention.

The Office Action has objected to the disclosure because the attempt to incorporate subject matter into the application omitted a U.S. Patent Application Serial Number and filing date. Applicants have amended the specification to include the serial number and filing date.

Claim Rejections - 35 USC § 112

The Office Action states that Claims 38-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claims 2-50 are rejected for reasons similar to the above.

The Office Action states "[t]he term 'if metric information is required' is not defined by the claim, the specification does not provide for a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention." Applicants have amended Claim 38 to now read: "determining if metric information is required for use by a configurable predetermined selection criteria to select a mirrored service." Independent Claims 44 and 50 have been similarly amended. This limitation is found on lines 20-22 of page 21 in the specification. As a result of the amendment, Applicants respectfully submit that the claim is not indefinite for the following reason.

The specification clearly states that whether metric information is required to be requested from agents, in some embodiments, depends on the configurable predetermined selection criteria chosen by, in some embodiments, a user such as a network administrator. "A user, such as a network administrator, configures the distributed director (step 600). The user configuration may include types of metrics used for service selection, priorities and weights for these configured metrics, service availability, and default service determinations." Page 19, lines 19-22. This user configuration determines, in some embodiments, "whether DRP agents need to be contacted for metric information." Page 21, lines 17-18. "Examples of configured selection criterias that do not need to contact DRP agents are portion, random, or administrative costs, since the distributed director may itself follow these criteria." Page 21, lines 20-22. "The DRP agents are preferably contacted for any type of additional information that the distributed director needs to facilitate a selection of the 'best' service based on its configuration. Examples of metric information that may require the distributed director to contact the DRP agents include DRP round trip time, DRP external metrics" Page 22, lines 21-23, Page 23 lines 1-3. Thus, for example, if a user selects "random" for the distributed director's selection criteria, metric information will not be requested from agents, in some embodiments. However, if "round trip time" is selected by the user, metric information will be requested from agents, in some embodiments. Applicants respectfully submit that the claim, as amended, is not indefinite, nor are Claims 38, 44, and 50 for similar reasons.

Claim Rejections - 35 U.S.C. § 103

The Office Action rejects Claims 38, 43, 44, 49, and 50 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,115,752 issued to Chauhan ("*Chauhan*") and further in view of U.S. Patent No. 6,483,835 issued to Tanigawa et al. ("*Tanigawa*").

The Office Action indicates that the limitation "if metric information is required" was not applied to Applicants' claims. Applicants respectfully submit that in light of the amendments to Claims 38, 44, and 50 and the remarks above, this limitation should be included in Applicants' claims and the claims should be allowed for the following reasons. The limitation, "determining if metric information is required for use by a configurable predetermined selection criteria to select a mirrored service," is not found in *Chauhan* in view *Tanigawa*. *Chauhan* teaches a mirrored server selection scheme that requires requesting from mirrored servers a round trip time: "In a preferred embodiment, the best

route determination begins with requesting all mirrored servers for a round trip time.” Col. 3, ll. 39-40. *Chauhan* makes no determination whether metric information is required to be requested because such information is always requested in order to use the round trip time selection scheme. In addition, *Tanigawa* also does not teach this limitation. The Office Action concedes that *Tanigawa* teaches “routing a message via the cheapest route which includes the Internet.” Nowhere in *Tanigawa* is it determined whether metric information is required to be requested from agents in order to route “a message via the cheapest route.” For these reasons, even the combination of *Chauhan* and *Tanigawa* will not teach this limitation. Therefore, Claims 38, 44, and 50 should be allowed, as should Claims 51-80 that depend therefrom.


CONCLUSION

Applicants have now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other apparent reasons, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, please feel free to contact the undersigned attorney for Applicants.

A check in the amount of \$550.00 is enclosed, however, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicant



Bradley P. Williams
Reg. No. 40,227

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Correspondence Address:

Customer Number: **05073**